

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES**

August 28, 2007

CALL TO ORDER

Acting Chair Proud called the meeting of the August 28, 2007 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Acting Chair Proud, Commissioners Ferrington, Schumer, Solomonson and Wenner.

Chair Feldsien and Commissioner Mons were absent.

APPROVAL OF AGENDA

Commissioner Ferrington noted that the agenda should show Acting Chair Proud describing the meeting process.

City Attorney Filla stated that as all items on the agenda deal with variances and only five Commissioners are present, it will take a vote of four to take action.

MOTION: by Commissioner by Schumer, seconded by Commissioner Solomonson to approve the agenda as revised.

ROLL CALL: Ayes - 5 Nays - 0

APPROVAL OF MINUTES

Page 1: Commissioner Ferrington noted that Chair Feldsien was present at the last meeting and called the meeting to order.

MOTION: by Commissioner Schumer, seconded by Commissioner Solomonson to accept the July 24, 2007 Planning Commission meeting minutes as amended.

ROLL CALL: Ayes - 5 Nays - 0

REPORT ON CITY COUNCIL ACTIONS

City Planner Nordine reported that the City Council approved the Fire Suppression text amendment. The Council did not review the Mendota Homes Concept Stage PUD, as the request for review was withdrawn.

The City Council is working on the 2008 budget and will defer action on fence regulations until later in the fall or winter.

NEW BUSINESS

VARIANCE

FILE NO.: 2286-07-27
APPLICANT: DOUG & JANE JOHNSON
LOCATION: 3620 RUSTIC PLACE

Presentation by Senior Planner Rob Warwick

This application is to construct a new house on the property at 3620 Rustic Place, a lot that has frontage on both Rustic Place and Rice Street. Access is from Rustic Place. The variance request is to reduce the rear setback from 177.3 feet to 124.1 feet. The front setback would be 48.2 feet from the lot line on Rustic Place. Setback requirements are based on the setbacks of the house to the north, which is 58.2 feet from Rustic Place and 187.3 feet from Rice Street.

The proposed house would be approximately 3,400 square feet—875 square feet for the garage and 2,640 square feet for the house footprint, including porches. The basement and proposed room above the garage will not be finished at this time.

The applicants state that hardship exists because of the narrow depth of the house to the north. The detached garage to the north contributes to the hardship because its depth is not included in the setback calculation. Setbacks and house designs are varied in the neighborhood, and the proposed plan fits well.

Staff notes that the property has a 6-foot fence along the rear lot line, and shrubs provide additional screening along Rice Street. The site is wooded with mature oaks. The proposal has a minimum of tree removal—four, and three are landmark trees. The house lot to the south has a deeper footprint but is not included in the setback calculation because the subject lot is a corner lot. If the lot to the south were included in the calculation, the setback range would be reduced by 17 feet to 160.15 feet. Staff found that the neighborhood has a diversity of lot sizes and house styles and believes that this variance would not jeopardize the character of the neighborhood. The wooded lot provides screening from the south and east, and the house footprint accommodates the trees as much as possible. Staff is recommending approval with the recommendation for tree protection during construction and the City Forester evaluate potential impact on the trees closest to the proposed house.

Property owners within 150 feet were notified of the application. No written comments were received and no opposition has been expressed.

Commissioner Solomonson asked if accessory structures could be placed in the back yard and how close they could be to Rice Street. Mr. Warwick explained that the location of accessory structures is determined by the placement of the house. In this case, they cannot be in a yard adjacent to a street because no accessory structure can be closer to the street than the house.

Commissioner Schumer asked what the setback would be if the property were not a through lot and the rear lot line was not on a street. Mr. Warwick stated that the setback would be 40 feet from the rear lot line abutting Rice St., an arterial road. As a through lot, the setbacks are subject to averaging based on adjacent properties.

Acting Chair Proud asked for clarification about the status of the bonus room above the garage. Mr. Warwick explained that the bonus room was designed with a knee wall but code requires a structural wall. The applicants understand this requirement and as the location of the bonus room will be verified with the building permit, and so it is not referenced in the motion.

MOTION: by Commissioner Solomonson, seconded by Commissioner Schumer to adopt Resolution 07-61, approving the variance request submitted by Doug and Jane Johnson to construct a new residence and attached garage with a rear setback of 124.1 feet from the Rice Street right-of-way, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the variance application (house plans dated July 23, 2007, and survey as revised 7-31-07). Any significant change to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. Landmark trees removed shall be replaced at a ratio of 2 replacement trees per landmark tree removed. A surety in the amount of \$250.00 per required replacement tree shall be deposited with the City prior to issuance of a building permit. The grading plan submitted with the building permit application will identify all landmark trees proposed for removal.
3. Tree protection shall be installed and maintained during construction. All retained trees within the limits of construction shall be encircled with wood chips, 2 feet deep, to the drip edge.
4. The site shall be inspected after the house location is staked and tree protection installed. The City Forester shall determine the likely survival probability of trees with drip edges extending over the foundation. The City may require a surety for replacement trees if these retained are likely to be damaged, including root damage.
5. No temporary or permanent driveway access to Rice Street shall be permitted.
6. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
7. This approval is subject to a 5-day appeal period.

ROLL CALL: Ayes - 5 Nays - 0

VARIANCE

FILE NO.: 2287-07-28
APPLICANT: CAROLETTE RODRIGUEZ
LOCATION: 5511 ST. ALBANS STREET

Presentation by Senior Planner Rob Warwick

This application requests a setback variance to construct a 484 square foot addition to the existing attached garage that is 22' x 22' in size. The property is located on the corner of County Road I and St. Albans Street. A variance from the 40-foot requirement is requested to allow a 31-foot setback from the arterial road, County Road I. The setback of the new addition would be the same as the setback of the existing garage. The setback from the rear lot line would be approximately 62 feet. The proposal complies with the height and lot coverage requirements.

The applicant states there is hardship because of the location of the existing house and garage. The house was built 31 feet from County Road I and approved by the City. Staff concurs with the applicant. To require the 40-foot setback would mean that the garage interferes with the living area of the house. Also, there is landscaping along the north lot line to screen the garage from County Road I. Staff would recommend several additional conifers and a window on the north elevation of the addition to mitigate the increased structure mass and soften its appearance.

Property owners within 150 feet were notified of the applicant's request. Two written comments were received in support of the proposal. One verbal response expressed concern about a driveway expansion and a new access onto County Road I.

Commissioner Solomonson asked if a variance was required for the existing 31-foot setback of the house when it was built. Mr. Warwick answered, no. Commissioner Solomonson asked if there would be windows on the County Road I side to break up the wall mass. Mr. Warwick stated that one window is planned that is approximately 8 square feet.

Commissioner Schumer asked the size of any additional detached accessory structure that would be allowed. Mr. Warwick stated that two detached accessory structures are permitted. The requirement is that accessory structure floor space cannot exceed 1200 square feet or 90% of the living area of the dwelling area foundation, whichever is less. In this case, a detached accessory structure could be approximately 125 square feet.

Commissioner Schumer asked what remedy the City would have if this garage were used for a business. Mr. Warwick explained that a home occupation permit is allowed only within the main home dwelling. A business is not allowed in an accessory structure.

Commissioner Ferrington asked if the concrete along the side of the house would be extended around the new addition. Her concern is that it would be used as a driveway to access the new garage on the back side. **Mr. Jesse Rodriguez** answered that there is a gate where the concrete strip is on the side of the house. The gate is not wide enough to allow a car through. He emphasized that the garage will not be used for commercial purposes.

MOTION: by Commissioner Wenner, seconded by Commissioner Ferrington to adopt Resolution 07-60, approving the variance request submitted by Carolette Rodriguez to construct an addition onto the existing attached garage with a side setback of 31 feet from the County Road I right-of-way, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. The garage addition shall maintain a minimum setback of 31 feet from County Road I. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. A minimum of one window shall be installed in the north wall of the garage addition. The window shall have a minimum area of 6 square feet.
3. A minimum of two conifer trees shall be installed between the garage addition and the north lot line. The landscape screening that now exists shall be maintained with like plantings.
4. A landscape plan, showing existing and proposed screening, shall be submitted prior to issuance of a building permit for the addition.
5. No new driveway access is proposed or permitted. Access to the property is limited to the existing driveway access on St. Alban's Street. No driveway access directly onto County Road I shall be permitted now or in the future.
6. Expansion of the driveway is subject to permitting requirements of the City. No expansion is proposed at this time.
7. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
8. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

ROLL CALL: Ayes - 5 Nays – 0

VARIANCE

FILE NO.: 2288-07-29
APPLICANT: THOMAS BECK
LOCATION: 5929 HODGSON ROAD

Presentation by City Planner Kathleen Nordine

This application is to increase the maximum allowed floor area from 666 square feet to 786 square feet for a detached accessory structure that would replace an older detached garage that would be removed with this approval.

The property is on the corner of Hodgson Road and Emil Avenue in an R1 residential district. The property consists of 16,150 square feet with a width of 85 feet on Hodgson road and 190 feet of frontage on Emil Avenue. The current detached garage is at a setback of 16 feet, which does not meet the requirement of 30 feet. The new garage would comply with the setback minimum.

The maximum area for detached accessory structures on parcels of less than one acre is 750 square feet, or 75% of the dwelling foundation. The maximum area permitted by Code is 666 square feet. The house on this property is a rambler home with an attached two-car garage.

The applicant states that hardship exists because the existing detached garage is in poor condition and unsafe. The new garage will have the same floor area, and the structure will be in compliance with City requirements. The existing garage is a nonconforming structure and could be rebuilt to its exact size in the same location. The applicant prefers to bring the structure into compliance and is requesting the variance for the increased floor area of 786 square feet, which is more than the required 750 square feet.

Staff believes there is hardship with the non-conforming structure. Most other properties in the neighborhood comply with the setback requirements from Emil Avenue. Allowing the new garage would keep a more unified neighborhood and not alter the essential character of the neighborhood.

Property owners within 150 feet were notified of the proposed project. One written comment was received supporting the application.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to approve the variance request submitted by Thomas Beck, 5929 Hodgson Road, to construct a detached garage and adopt Resolution 07-63, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
4. Impervious surface coverage shall not exceed 40%.
5. The exterior design and construction of the structure must comply with Section 205.082(5e), *Exterior Design and Construction*.
6. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.
7. Trees on the property, which are to remain, shall be protected with construction fencing placed at the tree driplines prior to grading and excavating. A wood chip berm, with a minimum depth of 18 inches and minimum width of two feet, shall be installed on the protected side of the tree protection fence.

ROLL CALL: Ayes - 5 Nays - 0

VARIANCE

FILE NO.: **2289-07-30**
APPLICANT: **DOUGLAS & KATHLEEN OLSON**
LOCATION: **5405 CARLSON ROAD**

Presentation by City Planner Kathleen Nordine

The applicants seek to exceed requirements for floor area and height for a new detached accessory structure to replace an older shed that would be removed. The following variances are requested:

Exceed the maximum 750 square feet of area permitted; 880 square feet requested;
Exceed the maximum 18-foot building height permitted; 19'6" proposed;
Exceed the maximum 6-foot interior height for a storage area above the main floor; 6'6" proposed.

The property consists of 30,163 square feet with a width of 90.42 feet on Carlson Road and frontage on Turtle Lake. The applicants received a variance in 2003 to locate their home further from the street right-of-way than permitted by ordinance. A detached 824 square foot, 1.5 story garage is located adjacent to the street. This garage would be removed and replaced with an 880 square foot detached garage with storage space above the main floor. The height would be 19.5 feet with an interior storage space that has a

height of 6.5 feet. This is a little bigger than the original plan shown when the home was built in 2003. The new detached garage will be closer to Carlson Road and will result in the removal of one landmark tree.

The maximum permitted area for a detached accessory structure on a parcel that is less than one acre is 750 square feet or 75% of the dwelling unit with a maximum height of 18 feet. The existing garage is nonconforming.

The applicants state that they wish to reconstruct the garage as close as possible to the existing design but with the use of modern building methods. Variances are required for the area size, exterior and interior building height. The height of 19.5 feet is one foot taller than the present structure. The applicants state that a wider garage of 37 feet is needed to accommodate the internal stairway.

Staff does not support the variances requested. Hardship is not present because other alternatives are available to bring the size closer into compliance. Although the stairway is convenient, it is not needed for the main purpose of the structure, which is to store vehicles and lawn equipment. A pull-down stairway or exterior stairway could be used.

Property owners within 150 feet were notified of the application. One written comment was received that expressed no opposition to the accessory structure but did oppose the variance due to concerns about snow storage. City regulations require that snow be contained on the property and cannot be placed on adjacent property or public streets.

Commissioner Ferrington asked if the planned 864 square foot garage in 2003 was approved. Ms. Nordine stated that it was shown on the site plan but not specifically approved and no building permit was issued for it. Commissioner Ferrington asked if shoreland mitigation is required with this application. Ms. Nordine stated that shoreland mitigation was completed with the 2003 application and is not required with this request.

Commissioner Solomonson stated that he prefers the stairway access inside. The access outside can be done without a variance, but he believes it does not enhance the appearance.

Acting Chair Proud noted that his experience with pull-down stairways is that they are difficult, awkward and flimsy to use. Ms. Nordine stated that staff sees the upper storage area as a secondary use of the garage without the need to access that area often. That is why a pull-down stairway would be a reasonable option.

Mr. Olson, Applicant, 5045 Carlson Road, stated that the proposed square footage is 878, 24 square feet larger than the previous structure. The reason for the internal stairway is a concern about security as well as appearance. An external stairway would be difficult to access in winter. Also, the garage placement will be moved 5.5 feet from the lot line. It now sits at 4.4 feet.

Commissioner Ferrington asked how the sight line would be improved. **Mr. Olson** stated that because the garage sits close to the house, the view of the front yard for himself and his neighbor is improved. The front yard is enlarged and impervious surface from another small structure of 292 square feet will be removed.

Commissioner Ferrington stated that it is a positive result to remove the small 292 square foot structure and a storage shed , which shrinks the amount of accessory structure and impervious surface.

Acting Chair Proud noted that the applicant has asked that this matter be tabled if it is not supported by the Commission. He polled Commissioners on their views of the proposal.

Commissioner Solomonson stated that he believes this is a positive change and would lean toward approval.

Commissioner Wenner agreed that there are positive changes, but he does not see where there is hardship to justify the variance.

Commissioner Ferrington also agreed with the positive impact but stated it is her understanding the Commission can only consider what has been proposed. City Attorney Filla responded that the Commission can consider other facts that are brought out in discussion. If the size of the structure were to be changed or a different location presented, then those changes could not be considered with this application.

Commissioner Schumer stated that he finds it difficult to be persuaded of hardship. While good information has been presented by the applicant to show positive results, he would like to see those details presented as part of the plan.

Acting Chair Proud stated that he supports the application but agreed it is not unreasonable to request more detailed information. It appears that two Commissioners would vote negatively, which would not be the necessary majority for approval.

Mr. Olson requested the matter be tabled to bring back a more detailed proposal.

Ms. Nordine noted the application was completed July 31, 2007. The motion should be to table the application based on the information presented, request additional information from the applicant regarding the project, and extend the time period for review to 120 days.

MOTION: by Commissioner Ferrington, seconded by Commissioner Solomonson to table Resolution 07-64 and advise the applicant to include additional information with his next submission and extend the time period of review to 120 days.

ROLL CALL: Ayes - 5 Nays - 0

VARIANCE

FILE NO.: 2290-07-31
APPLICANT: TERRANCE MORRI
LOCATION: 3266 EMMERT STREET

Presentation by City Planner Kathleen Nordine

The variance request is to construct an accessory structure 7 feet from the right-of-way line of Timber Lane. The minimum setback is 30 feet. The property is located on the corner of Emmert Street and Timber Lane. The lot width is 98 feet along Emmert Street, which is considered the front yard. The frontage on Timber Lane is considered a side yard. A playhouse sits approximately 7 feet from the Timber Lane right-of-way. The applicant would like to replace the playhouse with a storage shed of 80 square feet and a height of 12 feet. Code requires that accessory structures not be closer to the street than the principal structure. A minimum of 5 feet is required from a side lot line.

The applicant states that hardship is present with the topography of the property, which is hilly and limits the area of level ground suitable for a storage shed. The location of the playhouse is on level ground and would have easy access from the driveway and attached garage.

Staff believes there is hardship with the slopes in the yard that would require grade changes to put up a shed. The proposed location requires little preparation. It would be difficult to place the new shed further from the lot line because of trees. Staff has some concern about the visual impact from Timber Lane. The playhouse is well screened with vegetation, but the new shed will be larger and more visible. It is staff's recommendation that vegetation be retained on the south side for screening.

Property owners within 150 feet were notified of the variance request. No comments were received.

Commissioner Solomonson asked what type of plantings would be replaced if some die, as required in condition No. 5, or if additional screening is required if existing trees are pruned. Ms. Nordine stated that evergreens provide screening now. If any were to die, the City would expect replacement with evergreens. Additional vegetation would be required to screen gaps due to pruning.

Commissioner Schumer noted that when Timber Lane is improved, the curb may be closer to the house than now. He asked if screening would still be required. Ms. Nordine stated that the screening is required for the life of the variance--as long as the shed is there. The Public Works Director anticipates that the curb will be one or two feet closer to the house, which would not impact the existing vegetation.

Mr. Morri, 3266 Emmert Street, stated that he plans to add arborvitaes to the existing screening. There is little visibility between neighboring properties because of trees, shrubs and vegetation. The arborvitaes would be added to block view of the shed from the neighbor to the south. From the road, the small playhouse structure where the shed will be can hardly be seen. The proposed location of the shed is the only level area.

Acting Chair Proud asked Mr. Morri if he understands condition No. 5 that screening is to be provided as long as the shed is there. Mr. Morri affirmed that he understands the condition.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to adopt Resolution 07-65, approving the variance request submitted by Terrance Morri, 3266 Emmert Street to reduce the minimum 30-foot setback required to 7 feet for a storage shed, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
4. No landmark trees shall be removed for the shed construction. Any trees removed must be replaced in accordance with the City's Vegetation and Woodlands Ordinance.
5. The accessory structure shall be screened from view of adjacent properties and Timber Lane through the use of landscaping. The existing vegetation shall be retained to provide this screening and replaced if any plant materials die.
6. Impervious surface coverage shall not exceed 40%.
7. The exterior design and construction of the structure must comply with Section 205.082(5e), Exterior Design and Construction.
8. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.

ROLL CALL: Ayes - 5

Nays - 5

MISCELLANEOUS

City Council Meeting Assignments

Acting Chair Proud noted that Commissioners Wenner and Solomonson have switched Council meeting assignments. Commissioner Solomonson will attend September 4th, and Commissioner Wenner will attend September 25th.

Comprehensive Plan Workshop

Acting Chair Proud reminded Commissioners of the Comprehensive Plan workshop on September 11, 2007, at 7:00 p.m.

Joint Workshop

Ms. Nordine stated that a joint workshop is planned with the Environmental Quality Committee on September 24, 2007, at 7:00 p.m.

Planning Commission Workshop

Ms. Nordine stated that a workshop for the Planning Commission will be held prior to the regular meeting on September 25, 2007, at 6:15 p.m.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner Solomonson to adjourn the August 28, 2007 Planning Commission meeting at 8:50 p.m.

ROLL CALL: Ayes - 5 Nays - 0

ATTEST:

Kathleen Nordine
City Planner